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January 13, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

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JAN 13 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Docket No. 93-87

Attn: Honorable John M. Frysiak

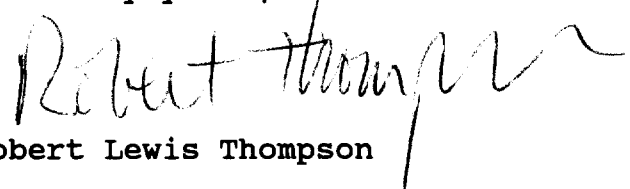
Dear Judge Frysiak:

Enclosed are an original and six copies of a "Corrected Petition for Leave to Amend" which should be substituted for the copies filed on January 7, 1994.

1. As originally filed, the Petition inadvertently did not contain an attached "Revised Amendment." In fact, the "Revised Amendment" was inadvertently attached to another document filed the same day, Ms. Selznick's "Opposition to Motion for Summary Decision and Dismissal." (The "Revised Amendment" attached to that Opposition should be ignored.)

2. The copies of the "Corrected Petition for Leave to Amend" enclosed herewith are otherwise identical to the Petition for Leave to Amend filed on January 13, 1994.

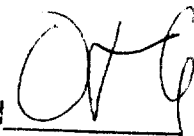
Sincerely yours,


Robert Lewis Thompson

Encl.

cc: Counsel of Record

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RECEIVED

JAN 13 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 93-87
RAYMOND W. CLANTON)	File No. BPH-911216MC
LOREN F. SELZNICK)	File No. BPH-911216MD
)	
For Construction Permit for a)	
New FM Station on channel 279A)	
in El Rio, California)	

To: Honorable John M. Frysiak
Administrative Law Judge

(CORRECTED)
PETITION FOR LEAVE TO AMEND

Loren F. Selznick respectfully petitions for leave to amend her above-referenced application to substitute a revised cost budget and revised financial plan. See Revised Amendment, attached hereto.

1. The Revised Amendment should be granted. First, it meets the FCC's "good cause" test for post-designation amendments. See generally Erwin O'Connor Broadcasting Co., 22 FCC 2d 140-143 (Rev. Bd. 1970). It satisfies the six elements of that "good cause" test:

2. The Revised Amendment updates Selznick's pending application to report changed information concerning her proposed costs and her continued financial qualifications. See 47 CFR § 1.65(a). The Revised Amendment is involuntary.^{1/} Indeed, if

^{1/} Assuming that Selznick herein has proved her financial qualifications ab initio, a change in the budget does not constitute improper upgrading. Cf. Lynn Broadcasting, 8 FCC Rcd 6719 at note 2 (applicant's post designation change in integration effectuation plan is not improper upgrading where original show-

Selznick were to fail to report such information, it reasonably could lead to the addition of a Rule 1.65(a) reporting issue against Selznick. ^{2/}

3. Acceptance of the Revised Amendment also would not require the addition of new issues. In fact, acceptance of the Revised Amendment will aid the resolution of the three issues that were added against Selznick last year. See discussion, infra, at ¶ 8.

4. The Revised Amendment has been diligently filed within 4 months after the Presiding Judge denied Selznick's first report of this information to the Commission. ^{3/} Cf. WCTO, Inc., 56 RR 2d 1539, 1546-50 (Rev. Bd. 1984).

5. Acceptance of the Amendment will not disrupt the hearing on the three issues added against Selznick, which is scheduled for January 12, 1994. Indeed, the Revised Amendment essentially reiterates the information submitted by Selznick in her Direct Case Written Testimony for that hearing, exchanged by hand on December 30, 1993. Clanton will not be unfairly prejudiced. ^{4/}

ing was adequate).

^{2/} See Weyburn Broadcasting L.P. v. FCC, 984 F.2d 1220 (D.C. Cir. 1993) (FM proceeding remanded for trial on issues including failure to update application as to financial plans).

^{3/} Selznick's August 30, 1993 Petition for Leave to Amend and accompanying Amendment was filed within 30 days of the change being therein reported. Hence, Selznick has complied with Section 1.65(a) of the Commission's Rules.

^{4/} Clanton will have an opportunity to review Selznick's Petition and Revised Amendment the week prior to hearing and an opportunity to file any response thereto. Moreover, Clanton will (footnote continued)

6. The "good cause" test is also met because Ms. Selznick will gain no undue advantage by acceptance of the Revised Amendment. The Revised Amendment concerns Selznick's basic qualifications only, not her comparative case. With respect to her basic qualifications, it long has been clear that an opponent such as Clanton has no vested interest in the disqualification of his competitor. See generally Azalea Corp., 31 FCC 2d 561 (1971).

7. In sum, the Commission's "good cause" test is met in these circumstances by Selznick's Revised Amendment and it should be accepted.

8. The Revised Amendment also should be accepted in this case whether the "good cause" test for post-designation amendments is technically met or not. To reject Selznick's Revised Amendment would be arbitrary and capricious for two reasons. First, it would depart arbitrarily from FCC precedents. The FCC long has favored an opportunity to choose between two or more competing applicants in awarding broadcast spectrum. Cf. Golden Shores Broadcasting, Inc., 2 FCC Rcd 4743 (1987) (FCC has interest in maximizing the "pool" of applicants for a new FM station). Here, the Judge's failure to accept Selznick's Revised Amendment could lead to Selznick's disqualification and, by default, the grant of Clanton's application. The Commission has recognized that, in appropriate circumstances, its statutory policies are best achieved by accepting an amendment vel non when

have an opportunity to cross-examine Ms. Selznick at the January 12, 1994 hearing session, inasmuch as Selznick will not oppose Clanton's request for her cross-examination.

to do so will remove a potentially disqualifying defect. See Anax Broadcasting, Inc., 87 FCC 2d 483, 488-89 (1981). Indeed, the Commission even has granted an applicant's **third** financial amendment when it furthered the ends of justice [see 47 USC § 154(j)] and best served the Commission's statutory mandates. See, e.g., Bison City TV 49 Partnership, 91 FCC2d 26, 30 (Rev. Bd. 1982). In this case, acceptance of the Revised Amendment will best serve the public interest by preserving a choice between applicants. Accord WCTO, Inc., supra, 56 RR 2d at 1546-50.

9. **Second**, the Judge's failure to accept Selznick's Revised Amendment would undermine the FCC's policy in requiring applicants to both tell the truth and report changes to their proposals within 30 days of their occurrences. See 47 CFR § 1.17, § 1.65(a). As detailed in her Revised Amendment (and previously in her August 1993 Amendment), Selznick changed her plans with respect to building and operating the El Rio FM station following settlement talks with Clanton. She and Clanton agreed that, in order to succeed in a more competitive FM radio environment, the El Rio station would have to be constructed and operated in a manner far different from that proposed in Selznick's 1991 application. Moreover, when settlement talks finally collapsed in the summer of 1993, Ms. Selznick consulted numerous experts to determine whether it was even worthwhile to continue to pursue the El Rio application in light of the changes in the FM radio environment. She was told that her original cost budget was unrealistic and excessive. Accordingly, Ms. Selznick concluded that she

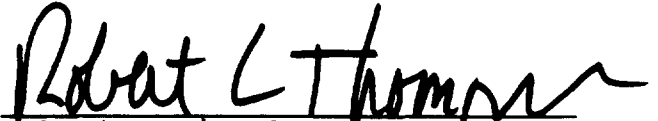
should pursue her FM application for El Rio but to report to the Commission that her plans had substantially changed with respect to the cost budget and, derivatively, with respect to her financial plan. It would be arbitrary and capricious for the Commission to disallow such changes. ^{5/} See Bechtel v. FCC, D.C. Cir. No. 92-1378, decided December 17, 1993. Ms. Selznick simply would not build her proposed FM station as originally proposed because of changed circumstances in the FM radio environment. In the interest of eliminating artificialities in the FCC's comparative hearing process (see Bechtel v. FCC, supra), the FCC should accept Selznick's Revised Amendment.

^{5/} Such a change is not an unlawful "upgrading" of Selznick's application as long as she demonstrates her initial financial qualifications. Cf. Lynn Broadcasting, supra, 8 FCC Rcd at 6719 n.2 (1993) (applicant's post-designation change is not improper upgrading when original showing was adequate).

CONCLUSION

The Petition should be granted and the Revised Amendment should be ACCEPTED.

Respectfully submitted,


Robert Lewis Thompson
PEPPER & CORAZZINI
1776 K Street, N.W., Suite 200
Washington, D.C. 20006
(202) 296-0600

Counsel for Loren F. Selznick

January 6, 1994

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REVISED AMENDMENT

My application for a new FM station at El Rio, California (BPH-911216MD) is amended to substitute a revised budget and revised financial plan.

1. As early as the summer of 1985, when I had a solo legal practice in Staten Island, New York, I began to consider quitting my practice of law and resuming my radio career. At that time, I was subscribing to Broadcasting magazine. I attended the 1985 National Association of Broadcasters radio convention in Dallas, Texas. I visited a radio station for sale in Geneva, New York, with my former chief engineer at WVBR-FM, Ithaca, New York, John B. Hill, but we were not sufficiently satisfied with either the market or the facilities to make an offer. Shortly thereafter, I was offered a position as a law clerk for the Honorable Vito J. Titone, of the New York State Court of Appeals, and put my desire to purchase a radio station on hold.

2. In 1987, I began working at Breed, Abbott & Morgan as a litigation associate. It was still in my mind that I wanted to purchase and manage a radio station. In the spring of 1991, I again began to seriously consider quitting the practice of law and resuming my radio career. At about this time, I resumed my subscription to Broadcasting magazine and kept abreast of radio stations for sale and the prices of stations in various markets in Southern California, where I was interested in relocating.

3. In May, 1991, I took an exploratory trip to California with my friend, Susan L. Valle. At this time, I was aware of a radio station for sale in the Fresno area. Ms. Valle and I drove

around the state of California and spent some time in Fresno as well as looking at other areas of Southern California. We also stayed for part of the time at the California home of my law colleague and friend Joseph P. Dailey and his family, who had moved to Anaheim from New York City in early 1991. Mr. Dailey and I have practiced law together on nearly a daily basis since I joined his law firm, Breed, Abbott & Morgan, in 1987. Even after Mr. Dailey resigned his partnership in the firm and moved to California in 1991, he and I remained close friends and continued to practice law together on a daily basis. I see Mr. Dailey when he visits at the firm's New York office at least monthly and speak with him on the telephone nearly every day. I consider Mr. Dailey to be like a member of my extended family.

4. During the summer of 1991, I spoke with various media brokers whom I had found in Broadcasting magazine and Broadcasting Yearbook about my interest in acquiring and managing a radio station in Southern California. In the late summer of 1991, I traveled to California again, attended the NAB radio convention in San Francisco and again stayed at the home of Mr. Dailey and his family in Anaheim while I visited, with a broker, at least three radio stations which were on the market in Southern California.

5. When I discussed the possibility of buying a radio station with Mr. Dailey during the spring and summer of 1991, he told me about his previous interest in buying a radio station and he cautioned me against paying what he considered to be prices at

excessive multiples of cash flow for radio stations at that time. I ultimately made one offer for an AM-FM combination approximately one hour northeast of Los Angeles, but that offer was not accepted.

6. Shortly after my return to New York, I became aware of the El Rio, California FM filing window. I discussed this business opportunity with several friends, family members and law colleagues, including Mr. Dailey. In my initial discussions about El Rio with Mr. Dailey, he told me he thought that acquiring a license and building a radio station was a better idea than overpaying for one. As I continued to consider my El Rio FM options, another former law colleague -- Derrick Cephas -- told me that his investment group, which I knew owned radio stations, would be interested in providing financing for the potential El Rio FM project. About a month later, I mentioned to Mr. Dailey that I had not yet reached an agreement with the Cephas group and Mr. Dailey immediately offered to loan me the money for the El Rio FM project.

7. In late November or early December, prior to my signing the FM application, I told Mr. Dailey in one of our almost daily telephone conversations that I had estimated construction and start-up costs for the El Rio FM station to be slightly more than \$350,000 and I asked him if he still was willing to loan me that entire amount. Mr. Dailey assured me that he was and I took further steps to complete an FCC application for filing. After reviewing both the FCC Form 301 application and the Instructions

thereto and also discussing the application with my counsel Peter Tannenwald, Esq., of Arent, Fox, Kintner, Plotkin and Kahn, I called Mr. Dailey to further discuss the details of his financial commitment to my FCC application. When he asked if I needed a written commitment letter, I told him, based on my research, that I did not need a written commitment letter from him. At some point prior to filing my application, I told Mr. Dailey that he needed to have net liquid assets equal to the total amount of my estimated costs, \$360,070. Mr. Dailey subsequently pulled up his then-current Balance Sheet on his computer screen in California and, with me on the telephone from New York, we went over his net liquid assets item by item. A copy of Mr. Dailey's balance sheet as of November 30, 1991 -- within a few days or weeks of our telephone conversation -- is attached hereto as Appendix A. Based upon our item-by-item review of his balance sheet, I concluded that Mr. Dailey had substantially more than \$360,070 in net liquid assets. His cash and cash equivalents on hand exceeded \$360,070. I subsequently signed my Form 301 application on December 13, 1991, and it was filed at the FCC on December 16, 1991.

8. Although Mr. Dailey and I did not expressly discuss the precise terms of his proposed loan to my FM project, I understood from the outset that, in fairness to both of us, the loan would be based on standard commercial terms for start-up businesses, which I also have understood from the outset would mean a 60-month note, an interest rate of several points above prime,

secured by the station's assets and guaranteed by me personally.

9. Mr. Dailey subsequently told me that he discussed the El Rio FM project with his brother-in-law, Terry McNulty, who is in the radio business in Pennsylvania.

10. Mr. Dailey has testified under oath in this proceeding that he did not merely "express a willingness" to lend \$360,070 to me for the El Rio FM station, he told me prior to December 13, 1991 that he could and would lend me that amount of money. See Dailey Deposition Tr. 56-58; 65-67; 81-83, attached hereto as Appendix B. Mr. Dailey has confirmed under oath, he gave me an "unconditional" commitment to finance the FM project. See Appendix B at Tr. 65.

11. When I estimated in 1991 that my FM station's construction and initial operating costs would total \$360,070, I contemplated building a large FM station that would accommodate a 24-hour live service, would utilize all brand new equipment and would have substantial operating expenses reflecting such a large-station operation.

12. Approximately two weeks before lengthy settlement talks with Raymond Clanton broke down on approximately August 9, 1993, I began to restudy the viability of a proposed new FM station at El Rio. In settlement talks with Mr. Clanton, I had already come to recognize that my original cost estimate -- as stated in my December 1991 application -- was unreasonably and artificially high. Before settlement talks collapsed last summer, Mr. Clanton and I had discussed the need in today's competitive FM

environment to operate a lean FM station at El Rio. After discussions with four radio brokers and consultants last summer, I concluded that my 1991 proposal to buy all new equipment and to operate on a 24-hour live basis would not be a viable approach for a start-up station in the Class A FM station at El Rio in the 1993-94 competitive FM market. I concluded that my application should be amended to propose an initial operation of a satellite-delivered music service, augmented by live local news. I also concluded, based on professional advice from inter alia the California radio consulting firm of Miller & Associates, that most of the needed equipment for the El Rio station could be purchased used.

13. My revised construction budget totals \$79,460. See Revised Budget, attached hereto as Appendix C. The proposed tower site is a multi-use site where two-phase electric power is already available. With respect to the studio, I have been assured by Miller & Associates that the rental market in Ventura County is so competitive that I will be able to get studio improvements included in the rent base and up to six months of free rent with a multi-year lease. I have estimated first 90-day operating expenses at \$30,000. See Appendix C hereto. Because I will draw no salary for at least the first three months, use a contract engineer and rely on satellite-fed music programming, my monthly expenses during the first three months will be at most \$10,000. Hence, my total estimated cost is \$109,460. Id.

14. To meet my estimated costs, I am now relying principally on my own net liquid assets and for up to \$40,000 to be loaned to me by Joseph P. Dailey under the same terms as I discussed in ¶8, supra. Mr. Dailey confirmed to me that he will loan these funds if I so request. He also has so stated under oath in this proceeding. See Appendix B at Tr. 65.

15. My net liquid assets increased substantially between 1991-93. As of December 30, 1993, my net liquid assets total at least \$100,700. See Appendix D (liquidity analysis. The value of my two apartments has been established by written appraisals. See Appendices E and F. Since I propose selling my two apartments and handling the closings myself, no brokerage fees or closing costs will be involved. In addition, there is no need to budget for capital gains taxes upon the sales of my two apartments because there will be no gain. The current basis of my Bank Street apartment is approximately \$87,000. My basis in the 11th Street apartment is approximately \$126,000.

16. My available net liquid assets totalling at least \$100,700 and my loan commitment of \$40,000 from Mr. Dailey are sufficient to meet my estimated costs of \$109,460, with a budget cushion.

I affirm that the foregoing is true and complete to the best of my information and belief. Executed January 6, 1994.


Loren F. Seznick

A

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C.

In re Applications of)	MM DOCKET NO. 93-87
)	
RAYMOND W. CLANTON)	File No. BPH-911216MC
)	
LOREN F. SELZNICK)	File No. BPH-911216MD
)	
)	
For Construction Permit for a)	
New FM Station on channel 279A)	
in El Rio, California)	

To: Honorable John M. Frysiak
Administrative Law Judge

DECLARATION

1. My name is Joseph P. Dailey and I reside at 565 Peralta Hills Drive, Anaheim, California 92807. I make this declaration in support of the amendment to the application of Loren F. Selznick for a new FM station in El Rio, California concerning financial qualifications.

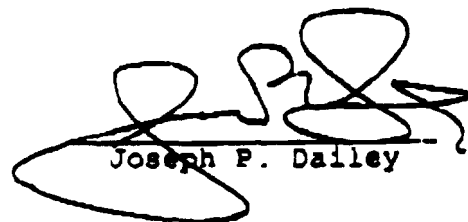
2. At the time Ms Selznick applied for the construction permit in December 1991, I gave her reasonable assurance that I would provide the funds necessary to construct the station and operate it for three months without revenue. At the time, we contemplated that the total cost would be \$360,070. Annexed to this declaration as Exhibit A is my personal financial statement as of November 30, 1991 with which Ms Selznick was familiar. Also annexed as Exhibit B is my personal financial statement as of August 27, 1993. I was and continue to be able to provide the funds originally contemplated.

3. In late July, 1993, Ms Selznick and I had a telephone conversation in which Ms Selznick told me that she had spoken with several brokers and consultants. She reported to me that she was advised that a much more streamlined approach to both construction and operations would be advisable for a start-up radio station. Specifically, Ms Selznick informed me that she was advised that the funds necessary would be less than \$110,000. With the substantially lower amount in mind, Ms Selznick also advised me that she thought she would be able to provide almost all of the funding herself. We agreed that Ms Selznick would provide as much of the funding as she could and that I would make up the difference with a loan of up to \$40,000.

4. If my funding is required, I am willing to provide a loan of up to \$40,000 for a term of 5 years at an interest rate of 12% with payments to commence one year after completion of construction of the radio station.

I swear under penalty of perjury that the foregoing is true and complete.

August 27, 1993



Joseph P. Dailey

Social Security..... 179-84-8445

Address..... 565 Peralta Hills Drive
Anaheim, California 92807

Telephone..... (714) 282-1170 (Home)
(714) 640-5426 (Office)

Occupations..... Attorney
President
RunTime Technologies, L.P.
610 Newport Center Drive, Suite 600
Newport Beach, California 92660

Peralta Hills Home (Appraised Value).....	\$1,600,000
Cash	\$218,000
Partnership Profits	\$230,864
Salary Receivable.....	\$50,000
Partnership Inventory Interest	\$150,368
RunTime Technologies Investment At Cost.....	\$420,000
Personal Property.....	\$250,000
Automobiles.....	<u>\$20,000</u>
Total.....	\$2,939,232

Mortgage Debt.....	\$975,000
Bank Loans.....	\$44,970
Notes Payable.....	\$0
Income Taxes Payable.....	\$0
Charge Accounts Payable.....	\$0
Total.....	\$1,019,970

Net Worth..... \$1,919,262

Social Security..... 179-84-8445

Address..... 565 Peralta Hills Drive
Anaheim, California 92807

Telephone..... (714) 282-1170 (Home)
(714) 640-5426 (Office)

Occupations..... Attorney
President
RunTime Technologies, L.P.
610 Newport Center Drive, Suite 600
Newport Beach, California 92660

Peralta Hills Home (Appraised Value).....	\$1,600,000
Cash	\$42,800
Partnership Profits.....	\$124,627
Salary Receivable.....	\$216,667
Notes Receivable.....	\$30,000
Partnership Inventory Interest.....	\$90,220
RunTime Technologies Investment At Cost.....	\$780,000
Personal Property.....	\$250,000
Automobiles.....	<u>\$10,000</u>
Total.....	\$3,144,314

Mortgage Debt.....	\$950,000
Bank Loans.....	\$68,921
Notes Payable.....	\$0
Income Taxes Payable.....	\$0
Charge Accounts Payable.....	\$0
Total.....	\$1,018,921

Net Worth..... \$2,125,392

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of

RAYMOND W. CLANTON

LOREN F. SELZNICK

For Construction Permit for a
New FM Station on channel 279A
in El Rio, California

)
) ORIGINAL
)
)
)
) Case No. 708 715
)
)

DEPOSITION OF:

JOSEPH P. DAILEY, ESQ.

MONDAY, NOVEMBER 22, 1993

10:05 A.M.

Reported by: MARY LOU CUSHNER

C.S.R. No. 6699

1 BY MR. DANIELS:

2 Q. So after December, 1991, other than the
3 financial statements, Exhibit 1, and Exhibit 2 that
4 you provided to her, did she ask for any other
5 writings?

6 A. What kinds of writings? As I told you, we
7 did exchange drafts of this agreement with Clanton,
8 and we did exchange over the modem the spreadsheet
9 that I told you about where she was doing a financial
10 projection of the business.

11 Q. But you did say that you felt that had
12 nothing to do with the loan related to this
13 application.

14 A. You didn't qualify it by "the loan." You
15 said did she ask for any other writings.

16 Q. Correct.

17 A. Relating to the loan, no. She never asked
18 for any writings relating to the loan until August,
19 1993, and she specifically said that they weren't
20 required because I indicated I would be prepared to
21 provide them if they were.

22 Q. So did you orally express a willingness to
23 lend Ms. Selznick the money for the El Rio station?

24 A. No, I didn't express an interest; I told her
25 that I would.

1 Q. Before December, 1991, do you remember which
2 conversation you did this in and what it is that you
3 said?

4 A. We just went over that. I'll recapitulate it
5 for you. At some point in 1991, in November, 1991,
6 and I date it all by the receipt of this check from my
7 former law firm, which has nothing to do with this
8 specifically except that I remember very clearly
9 waiting for it, having received it, and then Loren and
10 I going over my balance sheet, and that's how I'm able
11 to date the conversations. Those were about the third
12 week in November.

13 Before that there was -- and it may have been
14 a week or two before that -- she told me that she was
15 getting concerned that Derrick Cephas and his group
16 would not give her the commitment that she needed to
17 file her application. It was at that point that I
18 volunteered, and I said that, "Hey, I'll be glad to do
19 it. I think it's a great deal."

20 And following that, we had another
21 conversation -- it was very shortly thereafter --
22 where she became back and basically asked me to
23 confirm what I had previously said. She said, "Are
24 you really sure you want to do this?"

25 And I said, "Absolutely." I said, "This is a

1 very good deal." And I again reviewed what I saw as
2 the economics of the transaction -- that you had an
3 opportunity to get in on the ground floor and that
4 your basic security was knowing that the market was
5 pricing these stations substantially higher than their
6 cost, and it made sense. And I confirmed that.

7 Q. And during those two conversations you've
8 just spoken of, did you discuss any of the terms?

9 A. No, we never -- we never discussed the
10 terms. I told her that I would provide the financing.

11 Q. How much was requested?

12 A. Well, at that point she had said \$350,000,
13 \$360,000, one of those two. My recollection is
14 \$350,000. She asked me at some point to sign a
15 declaration in which she said it was 360,000, but it
16 was in that range, but I'm not sure. That was the
17 number we were talking about. But she had previously
18 told me what the cost was to do this, but at this
19 point we had not talked about the financing from me.
20 She was talking about getting financing from Derrick
21 Cephas and his group.

22 And as I said, it's possible, although I'm
23 not sure, because this would have been in October,
24 1991. I know I was in New York several times because
25 we had just gotten a major decision in litigation, and

1 debt and probably precluded the acquisition of further
2 debts --

3 Q. Let's go back --

4 A. -- or they could have been very healthy and
5 very strong and would have been a means for financing
6 any additional ventures; so it really depends on the
7 circumstances.

8 Q. Let's go back to December, 1991. So at
9 that --

10 A. It's November, 1991, I believe I testified.

11 Q. Okay. So with regard to November, 1991, when
12 you had the two conversations we have been speaking of
13 with regard to the willingness or commitment, as you
14 said, to loan the money regarding the station, at that
15 time was that a firm intention to make a loan, future
16 conditions permitting?

17 A. I'm not sure what you mean by "future
18 conditions permitting." I gave an unconditional
19 commitment to finance the money and to lend her the
20 money, and there was no discussion of future
21 conditions.

22 Q. And at this time, do you have a firm
23 intention to make the loan, future conditions
24 permitting?

25 A. Again, I don't know what you mean by "future